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10/785,651	02/24/2004	David Lee Motsinger	1503/9	3735
25297 7590 09/02/2008 JENKINS, WILSON, TAYLOR & HUNT, P. A. Suite 1200 UNIVERSITY TOWER 3100 TOWER BLVD., DURHAM, NC 27707				
EXAMINER KEEHN, RICHARD G				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,651

Applicant(s)

MOTSINGER ET AL.

Examiner

Richard G. Keehn

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/21/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8, 9, 11-17, 20, 21, 23-26, 39, 41-43, 46-48, 50-55, 58-60 and 62-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/12/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1,3-5,8,9,11-17,20,21,23-26,39,41-43,46-48,50-55,58-60 and 62-64.

DETAILED ACTION

1. Claims 1, 4, 9, 11, 14, 16, 21, 23, 26, 39, 42, 47, 48, 52, 54, 59, 60, and 64 have been amended. Claims 2, 6, 7, 10, 18, 19, 22, 27-38, 40, 44, 45, 49, 56, 57, 61, and 65-207 have been cancelled. Accordingly, upon entry of this preliminary Amendment, claims 1, 3-5, 8, 9, 11-17, 20, 21, 23-26, 39, 41-43, 46-48, 50-55, 58-60, and 62-64 are pending.

Election/Restrictions

2. Applicant's election without traverse of Claims 1-76 in the reply filed on 2/21/2008 is acknowledged.

Information Disclosure Statement

3. It is impractical for the examiner to review the references thoroughly with the number of references cited in the case. By initialing each of the cited references on the accompanying 1449 forms, the examiner is merely acknowledging the submission of the cited references and merely indicating that only a cursory review is made of the cited references.

An applicant's duty of disclosure of material and information is not satisfied by presenting a patent examiner with "a mountain of largely irrelevant [material] from which he is presumed to have been able, with his expertise and with adequate time, to have found the critical [material]. It ignores the real world conditions under which examiners work." Rohm & Haas Co. v. Crystal Chemical Co., 722 F.2d 1556, 1573 [220 USPQ

289] (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) (Emphasis in original). Patent applicant has a duty not just to (disclose pertinent prior art references but to make a disclosure in such way as not to "bury" it within other disclosures of less relevant prior art; See *Golden Valley Microwave Foods Inc. v. Weaver Popcorn Co. Inc.*, 24 USPQ2d 1801 (N.D Ind. 1992); *Molins PLC v. Textron Inc.*, 26 USPQ2d 1889, at 1899 (D.Del. 1992); *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc. et al.*, 175 USPQ 260, at 272 (S.D. Fl- 1972).

4. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all

"statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a). See IDS for references labeled "No Copy."

Specification

5. Claims 26 and 64 are objected to because of the following informalities: The term "computer readable *medium*" is not defined in the specification. Appropriate correction is required.
6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "computer readable *medium*" is not defined in the specification.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
10. Claims 1, 3-5, 8, 9, 12-17, 20, 21, 24-26, 39, 41-43, 46-47, 50-55, 58-59, and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6513120 B2 (Kanzawa et al.), and further in view of US 2002/0062397 A1 (Chang et al.).

As to Claim 1, Kanzawa et al. disclose an invention substantially as claimed, including a method of monitoring protocol response codes for a server application, the method comprising:

- (a) capturing communication data in a network (Kanzawa et al. - Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network);
- (b) monitoring protocol response codes in communication data [*sic*] during a session (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the

limit is met, and reporting to the maintenance operator when the count exceeds the allowed value);

(c) determining a number of protocol response codes during the session (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(d) comparing the number of protocol response codes to a predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client (Chang et al. - Figure 1 discloses the client and server application connection in a network).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine connecting a client and a server; and between an application of the server and the client taught by Chang et al., with monitoring protocol

response codes in communication data during a session; determining a number of protocol response codes during the session; and comparing the number of protocol response codes to a predetermined number taught by Kanzawa et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to connect clients and servers in a secured manner (Chang et al. – Page 17, ¶ [0244]).

As to Claim 3, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein the communication data is communication over a network selected from the group consisting of a global communication network, a wide area network, a local area network, and a wireless network (Kanzawa et al. – Figure 1 discloses a local area network).

As to Claim 4, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein the communication data comprises an application protocol selected from the group consisting of hypertext transfer protocols, simple object access protocols, web distributed authoring and versioning protocols, simple mail transfer protocols, wireless application protocols, file transfer protocols, Internet message access protocols, post office protocols, web services protocols, structured hypertext transfer protocols, and

web-mail protocols (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 5, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein the communication data can comprise HTTP requests from the client and HTTP responses from the server application (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 8, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein the protocol response codes is a predetermined response code type (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 9, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein the protocol response codes comprise error response codes (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 12, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein step (c) comprises determining whether the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 13, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 12, comprising

selectively generating an alert if the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 14, Kanzawa et al. disclose an invention substantially as claimed, including a system for monitoring protocol response codes for a server application, the system comprising:

(a) a network interface operable to capture communication data in a network [sic], and operable to monitor communication data [sic] during a session (Kanzawa et al.

- Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network; Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(b) a detector operable to determine a number of protocol response codes during the session, and operable to compare the number of protocol response codes to a predetermined number (Kanzawa et al. - Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client (Chang et al. - Figure 1 discloses the client and server application connection in a network).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 15, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14,

wherein the communication data is communication over a network selected from the group consisting of a global communication network, a wide area network, a local area network, and a wireless network (Kanzawa et al. – Figure 1 discloses a local area network).

As to Claim 16, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14,

wherein the communication data comprises an application protocol selected from the group consisting of hypertext transfer protocols, simple object access protocols, web distributed authoring and versioning protocols, simple mail transfer protocols, wireless application protocols, file transfer protocols, Internet message access protocols, post office protocols, web services protocols, structured hypertext transfer protocols, and web-mail protocols (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 17, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14,

wherein the communication data can comprise HTTP requests from the client and HTTP responses from the server application (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 20, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14,

wherein the protocol response codes is a predetermined response code type (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 21, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14,

wherein the protocol response codes comprise error response codes (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 24, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14, wherein the detector is operable to determine whether the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login

failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 25, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 24,

wherein the detector is operable to selectively generate an alert if the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 26, Kanzawa et al. disclose an invention substantially as claimed, including a computer program product comprising computer-executable instructions embodied in a computer-readable medium for performing steps comprising:

(a) capturing communication data in a network (Kanzawa et al. - Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network);

(b) monitoring protocol response codes in communication data [sic] during a session (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the

limit is met, and reporting to the maintenance operator when the count exceeds the allowed value);

(c) determining a number of protocol response codes during the session (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(d) comparing the number of protocol response codes to a predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client (Chang et al. - Figure 1 discloses the client and server application connection in a network).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 39, Kanzawa et al. disclose an invention substantially as claimed, including a method of monitoring protocol response codes for a server application, the method comprising:

(a) capturing communication data in a network (Kanzawa et al. - Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network);

(b) monitoring protocol response codes in communication data (Kanzawa et al. - Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value);

(c) determining a number of protocol response codes for the server data (Kanzawa et al. - Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(d) comparing the number of protocol response codes to a predetermined number (Kanzawa et al. - Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client associated with server data (Chang et al. - Figure 1 discloses the client and server application connection in a network).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 41, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein the communication data is communication over a network selected from the group consisting of a global communication network, a wide area network, a local area network, and a wireless network (Kanzawa et al. – Figure 1 discloses a local area network).

As to Claim 42, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein the communication data comprises an application protocol selected from the group consisting of hypertext transfer protocols, simple object access protocols, web distributed authoring and versioning protocols, simple mail transfer protocols, wireless application protocols, file transfer protocols, Internet message access protocols, post

office protocols, web services protocols, structured hypertext transfer protocols, and web-mail protocols (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 43, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein the communication data can comprise HTTP requests from the client and HTTP responses from the server application (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 46, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein the protocol response codes is a predetermined response code type (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 47, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein the protocol response codes comprise error response codes (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 50, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 39,

wherein step (c) comprises determining whether the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 51, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 50, comprising

selectively generating an alert if the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 52, Kanzawa et al. disclose an invention substantially as claimed, including a system for monitoring protocol response codes for a server application, the method comprising:

(a) a network interface operable to capture communication data in a network [sic], and operable to monitor communication data (Kanzawa et al. - Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network; Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(b) a detector operable to determine a number of protocol response codes for the server data, and operable to compare the number of protocol response codes to a predetermined number (Kanzawa et al. - Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client associated with server data (Chang et al. - Figure 1 discloses the client and server application connection in a network).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 53, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52,

wherein the communication data is communication over a network selected from the group consisting of a global communication network, a wide area network, a local area network, and a wireless network (Kanzawa et al. – Figure 1 discloses a local area network).

As to Claim 54, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52,

wherein the communication data comprises an application protocol selected from the group consisting of hypertext transfer protocols, simple object access protocols, web distributed authoring and versioning protocols, simple mail transfer protocols, wireless application protocols, file transfer protocols, Internet message access protocols, post office protocols, web services protocols, structured hypertext transfer protocols, and web-mail protocols (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 55, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52,

wherein the communication data can comprise HTTP requests from the client and HTTP responses from the server application (Chang et al. – Page 3, ¶ [0035] recites networking using FTP and HTTP protocols).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 58, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52, wherein the protocol response codes is a predetermined response code type (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 59, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52, wherein the protocol response codes comprise error response codes (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of the type login error codes during a login session).

As to Claim 62, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52,

wherein the detector is operable to determine whether the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 63, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 62,

wherein the detector is operable to selectively generate an alert if the number of protocol response codes exceeds the predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

As to Claim 64, Kanzawa et al. disclose an invention substantially as claimed, including a computer program product comprising computer-executable instructions embodied in a computer-readable medium for performing steps comprising:

(a) capturing communication data in a network (Kanzawa et al. - Column 6, lines 31-35 recite capturing a login command; Figure 1 discloses in a network);

(b) monitoring protocol response codes in communication data (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value);

(c) determining a number of protocol response codes for the [sic] data (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value); and

(d) comparing the number of protocol response codes to a predetermined number (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

Kanzawa et al. do not explicitly disclose, but Chang et al. disclose an invention substantially as claimed, including

connecting a client and a server (Chang et al. - Figure 1 discloses the client and server application connection in a network); and

between an application of the server and the client associated with server data (Chang et al. - Figure 1 discloses the client and server application connection in a network).

The motivation and obviousness arguments are the same as in Claim 1.

11. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kanzawa et al. and Chang et al., and further in view of US 2005/0138193 A1 (Encarnacion et al.).

As to Claim 11, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 1,

wherein step (c) comprises determining the number of protocol response codes for the predetermined plurality of sessions (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

The combination of Kanzawa et al and Change et al. does not disclose, but Encarnacion et al. disclose an invention substantially as claimed, including wherein step (b) comprises monitoring [sic] in a predetermined plurality of sessions (Encarnacion et al. – Page 20, ¶ [0215] recites limiting the number of retrieval sessions to a predetermined number).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine monitoring in a predetermined number of sessions taught by Encarnacion et al., with monitoring protocol response codes in communication data [sic] during a session taught by the combination of Kanzawa et al. and Chang et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to limit the number of sessions to reduce the risk of security threats (Encarnacion et al. – Page 20, ¶ [0215]).

As to Claim 23, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 14, wherein the detector is operable to determine the number of protocol response codes for the predetermined plurality of sessions (Kanzawa et al. – Column 6, lines 31-65 recite the monitoring of login error codes during a login session, counting the number of login failures, comparing the number of failures to a predefined limit, identifying the session's requester address if the limit is met, and reporting to the maintenance operator when the count exceeds the allowed value).

The combination of Kanzawa et al and Change et al. does not disclose, but Encarnacion et al. disclose an invention substantially as claimed, including wherein the network interface is operable to monitor response codes in a predetermined plurality of sessions (Encarnacion et al. – Page 20, ¶ [0215] recites limiting the number of retrieval sessions to a predetermined number).

The motivation and obviousness arguments are the same as in Claim 11.

12. Claims 48 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kanzawa et al. and Chang et al., and further in view of US 6,282,281 B1 (Low).

As to Claim 48, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the method of claim 43.

The combination of Kanzawa et al. and Chang et al. do not explicitly disclose, but Low discloses an invention substantially as claimed, including wherein the server data is defined by a predetermined set of HTTP Unique Resource Identifiers (URIs) serviced by the server (Low – Claim 42 recites the set of HTTP URIs being derived from predetermined codes).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine wherein the server data is defined by a predetermined set of HTTP Unique Resource Identifiers (URIs) serviced by the server taught by Low, with the server data taught by the combination of Kanzawa et al. and Chang et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to allow the client to specify the set of URI's when making the request (Low – Claim 42).

As to Claim 60, the combination of Kanzawa et al. and Chang et al. discloses an invention substantially as claimed, including the system of claim 52,

The combination of Kanzawa et al. and Chang et al. do not explicitly disclose, but Low discloses an invention substantially as claimed, including wherein the server data is defined by a predetermined set of HTTP Unique Resource Identifiers (URIs) serviced by the server (Low – Claim 42 recites the set of HTTP URIs being derived from predetermined codes).

The motivation and obviousness arguments are the same as in Claim 48.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These include:

- | | |
|--------------------|--|
| US 20040025016 A1 | Trusted computer system |
| US 20030208694 A1 | Network security system and method |
| US 6993790 B2 | Host-based systematic attack detection tool |
| US 7246156 B2 | Method and computer program product for monitoring
an industrial network |
| US 20040146147 A1 | Subscriber migration system |
| US 20030236995 A1 | Method and apparatus for facilitating detection of
network intrusion |
| US 20020133585 A1 | Computer program for recording and selective
playback of a communication involving the hypertext
transfer protocol |
| US 20020136204 3A1 | Method and system for routing network traffic based |

upon application information

US 20020145625 A1 Distributed processing system and network monitoring
system

US 7124203 B2 Selective cache flushing in identity and access
management systems

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Keehn whose telephone number is 571-270-5007. The examiner can normally be reached on Monday through Thursday, 9:00am - 8:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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RGK

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